

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

MICHAEL GARCIA,

Defendant.

22-CR-49-04 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

A *Fatico* hearing in this case is scheduled for March 6, 2023, at 10:00 a.m. The Court has received the Government's letter, and exhibits, as to the hearing. *See* Dkt. 92. The defense's letter is due March 1, 2023. The Court has been notified that neither party intends to offer live testimony at the hearing, and that the Court will be asked to resolve any factual disputes between the parties on the basis of the written submissions. Assuming that such remains both parties' intention, the Court anticipates using the March 6 hearing first, to formally receive each side's exhibits; and second, to hear each side's arguments as to whether Garcia lied to the Government, including in proffer sessions, and if so, as to the consequence of such conduct at the upcoming sentencing, both as to the Guidelines calculation and the 18 U.S.C. § 3553(a) factors. The Court will also inquire of counsel as to any modifications that its findings may require be made to the presentence report. The Court does not, under any circumstances, intend to proceed with sentencing on March 6.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: February 27, 2023
New York, New York